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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	<b>CR 18-64-BLG-DLC</b>
<b>Plaintiff,</b>	
<b>vs.</b>	<b>OFFER OF PROOF</b>
<b>ALBERT GARCIA</b>	
<b>Defendant.</b>	

**THE CHARGE**

The defendant, Albert Garcia, is charged in the Indictment with possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) (Count I), and two counts of distribution of methamphetamine, in violation of 21

U.S.C. § 841(a)(1).

### **PLEA AGREEMENT**

The defendant, Albert Garcia, will enter a voluntary plea of guilty to Count I of the Indictment, pursuant to a plea agreement. The United States will move to dismiss Counts II and III of the Indictment at sentencing, if the Court accepts the plea agreement. The plea agreement filed with the Court represents the most favorable offer extended to the defendant. *See, e.g., Missouri v. Frye*, 566 U.S. 134 (2012).

### **ELEMENTS**

In order for the defendant to be found guilty of possession with intent to distribute methamphetamine, as charged in Count I of the Indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed methamphetamine;

Second, the defendant possessed it with the intent to distribute it to another person; and

Third, the possession with intent to distribute involved more than five grams of actual methamphetamine.

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## **PENALTY**

Count I of the Indictment carries a mandatory minimum five years to forty years imprisonment, at least four years of supervised release, a \$5,000,000 fine and a \$100 special assessment.

## **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

In September 2017, law enforcement received information about the defendant, Albert Garcia, being involved in the sale of methamphetamine in the Billings area. Law enforcement also had previous information about Garcia being involved in the sale of methamphetamine beginning in June 2016.

On September 13, 2017, law enforcement conducted a controlled buy of methamphetamine from Garcia through a confidential informant. Garcia contacted the confidential informant and agreed to meet at a casino in Billings. The confidential informant entered Garcia's car in the casino parking lot. Garcia told the informant that he normally charges \$1,100 for a "zip." The confidential informant then gave Garcia \$900 for approximately an ounce of methamphetamine.

On September 15, 2017, law enforcement conducted another controlled buy of methamphetamine from Garcia through a confidential informant. This buy

occurred in the parking lot of a bar in Billings. Again, the confidential informant entered Garcia's car. Garcia told the informant that he could not get any methamphetamine because his sources were out. Garcia then sold the informant a "bundle" of methamphetamine for \$250.

The methamphetamine purchased from Garcia during the above controlled buys was sent to the DEA lab for testing. The first purchase had a net weight of 25.711 grams, a purity of 97%, for a total amount of 24.9 grams of actual methamphetamine. The second purchase totaled 0.681 grams, a purity of 98%, for a total amount of 0.667 grams of actual methamphetamine.

The government would have presented this evidence through the testimony of law enforcement, lay witnesses, and expert witnesses.

DATED this 12th day of November, 2018.

KURT G. ALME  
United States Attorney

/s/ Bryan T. Dake  
BRYAN T. DAKE  
Assistant U.S. Attorney